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5 CISCO SYSTEMS INC,
6 Plaintiff,

7 v.
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9 ARISTA NETWORKS, INC.,
10 Defendant.

11 Case No. [14-cv-05344-BLF](#)
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13 **ORDER GRANTING IN PART AND
DENYING IN PART CISCO'S
ADMINISTRATIVE MOTIONS TO
FILE UNDER SEAL**

14 [Re: ECF 196]

15 Before the Court is Cisco's administrative motion to file under seal confidential
16 information in Cisco's response to Arista's supplemental proposed discovery plan. ECF 196. For
17 the reasons stated below, the motion is GRANTED IN PART AND DENIED IN PART.

18 **I. LEGAL STANDARD**

19 There is a "strong presumption in favor of access" to judicial records. *Kamakana v. City &*
20 *Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Foltz v. State Farm Mut. Auto.*
21 *Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). A party seeking to seal judicial records bears the
22 burden of overcoming this presumption by articulating "compelling reasons supported by specific
23 factual findings that outweigh the general history of access and the public policies favoring
24 disclosure." *Id.* at 1178-79. Compelling reasons for sealing court files generally exist when such
25 "'court files might have become a vehicle for improper purposes,' such as the use of records to
26 gratify private spite, promote public scandal, circulate libelous statements, or release trade
27 secrets." *Id.* (quoting *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978)). However,
28 "[t]he mere fact that the production of records may lead to a litigant's embarrassment,

1 incrimination, or exposure to further litigation will not, without more, compel the court to seal its
 2 records.” *Kamakana*, 447 F.3d at 1179. Ultimately, “[w]hat constitutes a ‘compelling reason’ is
 3 ‘best left to the sound discretion of the trial court.’” *Ctr. for Auto Safety v. Chrslyer Grp., LLC*,
 4 809 F.3d 1092, 1097 (9th Cir. 2016).

5 “Despite this strong preference for public access, [the Ninth Circuit has] carved out an
 6 exception,” *id.* at 1097, for judicial records attached to motions that are “tangentially related to the
 7 merits of a case,” *id.* at 1101. Parties moving to seal such records need only make a
 8 “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure
 9 26(c). *Kamakana*, 447 F.3d at 1180 (quoting *Foltz*, 331 F.3d at 1138).

10 In this District, parties seeking to seal judicial records must furthermore follow Civil Local
 11 Rule 79-5, which requires, *inter alia*, that a sealing request be “narrowly tailored to seek sealing
 12 only of sealable material.” Civil L.R. 79-5(b) (emphasis added). Where the submitting party
 13 seeks to file under seal a document designated confidential by another party, the burden of
 14 articulating compelling reasons for sealing is placed on the designating party. *Id.* 79-5(e).

15 II. DISCUSSION

16 The Court has reviewed Cisco’s sealing motion and Arista’s and non-party Juniper’s
 17 declarations in support thereof. The Court finds the parties have articulated compelling reasons to
 18 seal certain portions of most of the submitted documents. The proposed redactions are also
 19 narrowly tailored. Consistent with the declarations submitted by Arista and Juniper, the
 20 designating parties, the Court’s rulings on the sealing request are set forth in the tables below:

21 Identification of Documents 22 to be Sealed	23 Description of Documents	24 Court’s Order
25 Cisco’s Response to Arista’s 26 Supplemental Proposed 27 Discovery Plan (“Cisco’s 28 Brief”), pages: 3 at lines 17-19; 6 at lines 16-18 and lines 21-25; 7 at lines 19-21.	29 Arista does not oppose the 30 public filing of this document.	DENIED.
31 Cisco’s Brief pages: 6 at line 26 32 through 7 at line 2	33 Discusses confidential 34 development of Juniper’s 35 proprietary software.	GRANTED.
36 Exhibit 5 to the Declaration of 37 Matthew D. Cannon in Support 38 of Cisco’s Response to Arista’s 39 Proposed Supplemental	40 Arista does not oppose the 41 public filing of this document.	DENIED.

United States District Court
Northern District of California

	Discovery Plan (“Exhibit 5”)		
1	Exhibit 6 to the Declaration of Matthew D. Cannon in Support of Cisco’s Response to Arista’s Proposed Supplemental Discovery Plan (“Exhibit 6”)	Exhibit 6, page 177 at lines 8-24 contains sensitive internal Arista business information. Arista does not oppose the public filing of the balance of Exhibit 6.	GRANTED as to page 177, lines 8-24 and DENIED as to balance of Exhibit 6.
2	Exhibit 7 to the Declaration of Matthew D. Cannon in Support of Cisco’s Response to Arista’s Proposed Supplemental Discovery Plan (“Exhibit 7”)	Arista does not oppose the public filing of this document.	DENIED.
3	Exhibit 9 to the Declaration of Matthew D. Cannon in Support of Cisco’s Response to Arista’s Proposed Supplemental Discovery Plan (“Exhibit 9”)	Arista does not oppose the public filing of this document.	DENIED.
4	Exhibit 10 to the Declaration of Matthew D. Cannon in Support of Cisco’s Response to Arista’s Proposed Supplemental Discovery Plan (“Exhibit 10”)	Deposition transcript that discusses confidential development of Juniper’s proprietary software.	GRANTED.
5	Exhibit 12 to the Declaration of Matthew D. Cannon in Support of Cisco’s Response to Arista’s Proposed Supplemental Discovery Plan (“Exhibit 12”)	Internal Arista e-mail chain that discusses confidential competitive intelligence.	GRANTED.
6	Exhibit 13 to the Declaration of Matthew D. Cannon in Support of Cisco’s Response to Arista’s Proposed Supplemental Discovery Plan (“Exhibit 13”)	Internal Arista e-mail chain that discusses confidential communications relating to software development and business strategy.	GRANTED.
7	Exhibit 14 to the Declaration of Matthew D. Cannon in Support of Cisco’s Response to Arista’s Proposed Supplemental Discovery Plan (“Exhibit 14”)	Internal Arista e-mail chain that discusses confidential communications relating to software development and business strategy.	GRANTED.
8	Exhibit 15 to the Declaration of Matthew D. Cannon in Support of Cisco’s Response to Arista’s Proposed Supplemental Discovery Plan (“Exhibit 15”)	Internal Arista document that discusses confidential communications relating to software development.	GRANTED.
9	Exhibit 17 to the Declaration of Matthew D. Cannon in Support of Cisco’s Response to Arista’s Proposed Supplemental Discovery Plan (“Exhibit 17”)	Internal Arista e-mail chain that discusses confidential communications relating to software development.	GRANTED.
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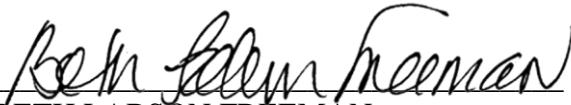
III. ORDER

For the foregoing reasons, the sealing motion at ECF 196 is GRANTED IN PART AND DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any request that has been denied

1 because the party designating a document as confidential or subject to a protective order has not
2 provided sufficient reasons to seal, the submitting party must file the unredacted (or lesser
3 redacted) documents into the public record no earlier than 4 days and no later than 10 days from
4 the filing of this order.

5 **IT IS SO ORDERED.**

6 Dated: March 3, 2016

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BETH LABSON FREEMAN
United States District Judge

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United States District Court
Northern District of California